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February 26,2003

Via Courier and First Class Mail

Jack Richards (202) 434-4210

Received Richards@khlaw.com

Gary Epstein
Latham & Watkins
555 Eleventh Street, NW
Suite 1000
Washington, DC 20004-1304

FEB **2 6** 2003

FEDERAL COMMUNICATIONS COMMISSION OFFICE OF THE SECRETARY

Counselfor General Motors Corporation and Hughes Electronics Corporation

Pantelis Michalopoulos Steptoe & Johnson LLP 1330 Connecticut Avenue, NW Washington, DC 20036-1**795** Counselfor EchoStar Communications Corporation

Re: Application of EchoStar Communications Corporation,

General Motors Corporation and Hughes Electronics Corporation, Transferor; and EchoStar Communications Corporation, Transferee (the Applicants), For Authority to Transfer Control;

CS Docket Number 01-348.

Dear Gary and Pantelis:

On behalf of our client, the National Rural Telecommunications Cooperative (NRTC), this is to certify that all Confidential and Highly Confidential information maintained by our firm during the course of the above captioned proceeding have been destroyed in accordance with the associated Protective Orders (*Protective Orders*).' All paper documents containing confidential and Highly Confidential information were shredded, and all electronic media containing such information also were physically destroyed.

Per the *Protective Orders*, our office is retaining copies of the Powerpoint Presentation and **Ex** Parte Reply filed on behalf of NRTC on September 4,2002, which contain Confidential

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WASHINGTON, D.C. BRUSSELS SAN FRANCISCO

In the Matter of Echostar Communications Corporation, General Motors Corporation, and Hughes Electronics Corporation, CS Docket No. 01-348 (DA 02-27, released January 9,2002; DA 02-964, released April 25,2002).

Marlene H. Dortch February 27,2002 Page 2

KELLER AND HECKMAN LLP

and Highly Confidential information.² We also are retaining one unredacted paper copy of the Hearing Designation Order.'

Should you have any questions, please feel free to contact the undersigned.

Sincerely.

Jack Michards

cc: Marlene H. Dortch, Secretary, Federal Communications Commission served via Courier

WASHINGTON, D.C. BRUSSELS

² See Ex Parte Notice, Application & EchoStar Communications Corporation, General Motors Corporation and Hughes Electronics Corporation, Transferor; and EchoStar Communications Corporation, Transferee, For Authority to Transfer Control; CS Docket Number 01-348, filed Under Seal (September 5, 2002) (NRTC Ex Parte). Two copies of the Powerpoint presentation (one electronic and one paper) will be retained in the offices of Keller and Heckman LLP with the understanding that each remains subject to the provisions of the Protective Orders. Because our office does not retain the electronic copy of the Ex Parte Reply, we will only retain one paper copy of the document.

³ Hearing Designation Order, Application of EchoStar Communications Corporation, General Motors Corporation and Hughes Electronics Corporation, Transferor; and EchoStar Communications Corporation, Transferee, For Authority to Transfer Control, File Number 01-348, FCC 02-284 (released October 18,2002).

FEB 2 6 2003

Federal Communications Commission Office of the Secretary

PETER R STOLL 5517 STANSBURY AVENUE SHERMAN OAKS, CALIFORNIA 91401-4920 Phone: 818.787.2299

PHONE NO. : 818 786+2471

Fax: 818.786.2471

February 17, 2003

Federal Communications Commission Office of the Secretary 445 - 12" street SW Washington, DC 20554

BY: FACSIMILE & UNITED STATES POSTAL SERVICE EXPRESS MAIL (In an abundance of caution, this Appeal is being filed in duplicate by both methods)

Dear Gentlepersons.

Re: Fund **Year** 5 Form 471 • DENIAL **OF** APPEAL IN FULL Letter fi-om the Universal Service Administrative Company

The undersigned designated as the contact person on Item **6A** of **Block** 1 of **the** "Schools and Libraries Universal Service Services Ordered and Certification Form 471 on behalf of the **Tennessee** School Boards Association ("ISBA"), **ELity** No. **228788**, and a duly authorized representative of the designated qualified Service Provider (NATIONAL VIDEOPHONE **SERVICES**, INC. Spin No. 143021004) named in the applicable **Form 471**, herein and hereby respectfully submits this **APPEAL** to the Federal Communications Commission.

CC Docket Nos. 96-45 and 97-21 (Federal Communications Commission)

APPEAL

This appeal is submitted pursuant to and based upon a "Fund Year 5 Form 471 - DENIAL OF APPEAL IN FULL Letter *dated* December 20,2002 issued by Universal Service Administrative Company Schools & Libraries Division (hereinafter "USAC:SL"), a true and correct copy of which is enclosed herewith and attached hereto.

In conformity with the "USAC:SL Appeals Procedure, the following information in numbered sequence as provided therein is respectfully submitted.

No. of Copies rec'd Page 1 of 8
List ABCOE

Tennessee School Boards Ass. Appeal to FCC

FROM: LRW PRO, INC. PHONE NO, : 818 786+2471 Feb. 17 2003 12:56AM P3

1. Contact Information

Name of Contact Person Peter Stoll

Address: 55 17 Stansbury Avenue Sherman Oaks, California 91401-4920

Phone Number: 81 X.787.2299 Fax Number: 818.786.2471 E-Mail: <u>PStoll9241@aol.com</u>

2. SLD Action Appealed From:

USAC "Administrator's Decision on Appeal – Funding Year 2002-2003

Document Dated: December 20, 2002.

Applicant's Name: TENNESSEE SCHOOLBOARDS ASSOCIATION

Form 471 Application Number: 331527

Billed Entity Number: 228788

Applicant's Form Identifier: TSBAVD9 Application Number: 331527

3. Funding Request Number:

"All attached FRNs" per the above-noted letter from the USAC dated: 12/20/02.

4.. Explanation of Appeal

All Funding requests were initially wholly rejected on grounds related to the entire application which, as stated in the appeal instruction letter, does not require any Funding **Request** Number. The Appeal of this initial rejection was timely filed with the Universal Service Administrative Company, Schools and Libraries Division. (hereinafter "USAC:SL"). A true and correct copy of that Appeal, together with exhibits filed therewith is attached hereto. and incorporated herein.

Thereafter, by letter dated December 20, **2002**, the USAC:SL "Denied in full" that Appeal. **A true** and correct copy of **said** "Denial" letter of 12/20/2002 is **attached** hereto.

The initial appeal to the USAC:SL in Whippany, New Jersey was based upon the following **exact** language **of** denial from the USAC:SL

"The FCC Form 471 submitted does not include at **least one** complete **Block 4 Worksheet** relevant to the "Type of Application" as selected in Block 1, Item 5."

In its letter of "Denial in full" of 12/20/02, the USAC:SL states precisely and totally as follows its grounds for its denial:

FROM : LAW PRO, INC. PHONE NO. : 818 786+2471 Feb. 17 2003 12:56AM P4

Your appeal states that, you did include a completed Block 4, worksheet including Block 4A and 4C relevant to the request for schools was timely and fully submitted. Because of the fact that this Form 47 I was filed as a consortium pursuant to Block 1, Item 5 and because of the documentation incorporated therein, the spreadsheet format was pre-approved and adopted for Blocks 4A and 4C and incorporated as "attachments" and identified in the submissions as such. You stated the pre-approved (excel) format contains each and every column of information requested on Blocks 4A and 4C. You would like the SLD to reconsider this funding request, make the appropriate corrections and include request within the window.

- Upon review of your appeal it was determined that you failed to submit a complete Block 4 worksheet for your Funding Year 2002-2003 Form 471. Program rules regarding minimum processing standards requires that at least one relevant Block 4(worksheet C) with Item 10b, Column 4 must contain data. Since your Block 4 worksheet (attachment) was incomplete it was properly rejected for failing minimum processing standards. Consequently your appeal is denied.
- The original submission (pre-approved excel spreadsheet) of this funding request was missing data in Block 4, Item 10b, Column 4, which caused the form to be rejected for failing to meet the minimum processing standards for that form. Forms that do not meet the minimum processing standards are not considered for funding. Your appeal has not shown that the request was improperly denied. Consequently, this funding request will not be data entered and your appeal is denied.

Before specifically addressing the erroneous factual basis for the denial of the Appeal, it is respectfully submitted without any adverse implication as to the good intentions of the USAC:SL to comply with its perception of its mission, that the Congress the United States in its passage of the telecommunications Act of 1996, and the FCC's administration thereof did not intend to venerate "form over substance".

Arvument

- (A) The <u>exact and precise</u> language used in the "Schools and Libraries Universal Service Services Ordered and CertificationForm" for the Form 471 and accompanying <u>instructions</u> with a footer stating: "FCC Form 471 Instructions November 2001", the official instructions taken from the USAC:SL website by the undersigned are as follows:
- **"4. Block 4** worksheet: **At** least one completed worksheet relevant to your application type (see Block 1, Item 5) must be submitted. If a relevant Block 4 Worksheet is not submitted, or the Worksheet is missing information, the form will be rejected."

The USAC:SL denial letter of 12/20/02 does *not* assert:

- **A.** That a relevant Worksheet was not submitted.
- B Information was **missing from**that Worksheet.
- C. That the "pre-approved excel spreadsheet" (emphasis added) did not contain the columnar information required to complete an instruction-compliant Worksheet.

What the USAC:SL in its denial letter appears to be saying is that if, on the Form 471 Block 4, Worksheet C, Item 10b, one single row of the columns for one entity was filled with information, and the "pre-approved excel spreadsheet" was psed for all ofthe remaining information then the Worksheet would be approved. There can be no other construction of the USAC:SL basis for denial. That being the case, then not only is form being venerated over substance, but the instruction noted above from the FCC approved instructions is ambiguous at the very least, and does not require one row to he tilled out as opposed to using the words "SEE ATTACHED" in each column on the face of the Worksheet in issue.

The crux of this Appeal and the total capriciousness and arbitrariness of the USAC:SL position is embodied in its own decision on Appeal

The USAC:SL denial of the Appeal is based solely on the statement quoted verbatim from its decision:

• The original submission (pre-approved excel spreadsheet) of **this** funding **request** was **missing** data **in Block 4**. Item **10b**. **Column 4**, which caused the **form** to be rejected for **failing** to meet the minimum **processing** standards for that form. Forms that **do** not meet the minimum processing standards are not considered for funding. Your appeal has not shown that the request was improperly denied. Consequently, this funding request **will** not be data entered and your appeal is denied. (Emphasis added).

The USAC has accepted the **exact** same "SEE ATTACHED" pre-approved format used in Block 4, Worksheet A, Item 10b, for columns 1 through 8, inclusive. A true and correct copy of that page is attached hereto and incorporated herein.

The USAC:SL has also accepted the <u>exact same</u> "SEE ATTACHED" pre-approved format used in Block 4, Worksheet C, Item 10b, for columns 1 and 2 (column 3 is "grayed out"), yet refuses to accept the same format for column 4 on the same worksheet. This position is unsustainable, and defies law, fact and logic.

Parenthetically, **the exact** same "SEE ATTACHED" pre-approved format **used** in the Block **5**, Worksheets was acceptable to the **USAC-SL**.

FROM: LAW PRO, INC. PHONE NO.: 818 786+2471 Feb. 17 2003 12:57AM P6

When viewed in the light of the written decision by the USAC:SL, the pre-approved "SEE ATTACHED" format was acceptable in the ENTIRE Form 471, EXCEPT foi-one column, on one worksheet, whereas other columns containing the exact same wording was acceptable on that worksheet and all others. Nothing further on that point can and need be said.

It is respectfully submitted that thr instructions were not only correctly followed, but as noted in the original Appeal to the USAC:SL, and the attached Declaration of Peter Stoll, advice was solicited from — as prescribed — the USAC:SL, and their advice was given and followed to the "letter". This latter point is highly significant in that, throughout the USAC:SL Official website, and in all of the instructions to the various E-Rate Forms (including among others, the Form 471), the USAC:SL states in hold letters:

"If you have Internet access (at work, at home, at a local library, or through a friend), please check the SLD web site <www.sl.universalservice.org> regularly for program updates. For more complete guidance, contact the SLD Client Service Bureau toll-free at 1-888-203-8100." (Latter underline emphasis added).

This instruction was followed completely and fully by the undersigned as noted in his attached declaration. By seeking this help and talking to the appropriate supervisor(s) at the USAC:SL, the undersigned, and more seriously and paiticularly all of the K-12 public school children in the State of Tennessee, as more fully described below are being irreparably penalized and punished – for following instructions.

In its denial letter the USAC:SL admits letter that the excel spreadsheet format was "pre-approved" by it.

In its denial letter, the USAC:SL acknowledges and does not deny that the "pre-approved excel spreadsheet" contains the required Worksheet C data.

In its denial letter, the USAC:SL refers to the fact that the filed Block 4, Worksheet C, Item 10b does not meet the "minimum processing standards", yet nowhere are those "standards' stated, enumerated or otherwise disseminated to the public other than in the instructions to Block 4 Worksheet quoted verbatim, above. Nowhere is it stated anywhere by the USAC:SL that a single entity row must be filled out on the face of Block 4, worksheet C, Item 10b, as opposed to the words "SEE ATTACHED" for the data entry functions to be performed by the USAC:SL. Viewed rationally, it cannot be honestly stated that filling in one entity in the rows on the face of the worksheet AND THEN using the "pre-approved excel worksheet" is acceptable for data entry and what was actually done is not acceptable for the same daxa entry. That position not only defies logic and reason, it is antithetical to the purpose of the E-Rate legislation, and to use that as the basis for a denial of E-Rate benefits to the entire K-12 school system for the State of Tennessee is not reasonable, and, it is respectfully submitted unsustainable, and bureaucracy "run amok". True and correct copies of the original Form 471, Block 4, Worksheet "C and the following first page of the attachment thereto are attached hereto, and incorporated herein by this

FROM: LRW PRO, INC. PHONE NO.: 818 786+2471 Feb. 17 2003 12:58AM P7

reference, so the reader(s) of this Appeal can see what was done and submitted to the USAC:SL

(B) The stated purpose of the E-Rate program **as** detailed on the Official USAC:SL website (under the section entitled "Overview") is that:

The 'E-rate- or, more precisely, the Schools and Libraries Universal Service Support Mechanism - provides discounts to <u>assist most schools</u> and libraries in **the** United States **to obtain affordable tele-communications and Internet access**. Three service categories are funded: Telecommunications Services, Internet Access, and Internal Connections. Discounts range from 20% to 90% of the costs of eligible services, depending on the level of poverty and the urban/rural status of the population served. Eligible schools, school districts and libraries may apply individually or as part of a consortium.

"The E-rate supports connectivity - the conduit or pipeline for communications using telecommunications services and/or the Internet. The school or library is responsible for providing additional resources such as the end-user equipment (computers, telephones, and the like), software, professional development, and the other elements that are necessary to realize the objectives of that connectivity.

The E-rate is one of four support mechanisms funded through a Universal Service fee charged to companies that provide interstate and/or international telecommunications services. The Universal Service Administrative Company (USAC) administers the Universal Service Fund at the direction of the Federal Communications Commission (FCC); USAC's Schools and Libraries Division (SLD) administers the E-rate." (Emphasis added).

The essential and STATED purpose of the entire E-rate program and process to achieve that program is to bring the schools and **libraries** in the entire United States into the 21" century and **to use** technology to alleviate teacher and classroom shortages, assist students to be able to better learn through technology, and integrate them into a more technology oriented world, and to "wire" the schools and libraries of this nation, among other valuable and noble purposes.

This program is fully self-funded through fees charged to end-user of phone services under the jurisdiction of the FCC and administered by an "outside agency", the USAC SL. It was not and cannot be the purpose of the Congress of the United States when passing the Telecommunications Act of 1996 and the President signing it into law, enabling the B-rate program, to frustrate its stated purpose by arbitrary, capricious and otherwise meaningless and improper UNSTATED RULES, such as the one applied in this case.

(C) The Form 471 in **this** matter was filed by the Tennessee School Boards Association, representing all approximately 138 school districts in the State of Tennessee, on behalf of approximately 900,000 K-12 students in the entire state. The request **for** E-Rate **funding** was *in* the many millions of dollars.

Yet, without any communication other than two unsigned form letters, and after in excess

FROM : LAW PRO, INC. PHONE NO. : 818 786+2471 Feb. 17 2003 12:590M P8

of eight (8) months from the original appeal to the unsigned denial letter (early April, 2002 to late December, 2002), and without any chance to be heard whatsoever, the request on behalf of the students of the State of Tennessee was summarily dismissed by the USAC. SL in a single sentence. It is rather incomprehensible that a legal, valid and fully compliant filing can be so summarily dismissed.

As noted in the Supplemental Declaration of Peter Stoll attached hereto, Form 471 is used as the basis of "data entry" by clerks at the USAC:SL intake office in Lawrence, Karsas. It is rather incredible to think that the data entry clerks in Lawrence would somehow be better off if a single row was filled in Item 10b of Block 4C of the Form 471 and then turn the page to enter the "attached" data, as opposed to the prior-approved method of reading "SEE ATTACHED" for that row under each column heading and then also turning the page and using the exact same data except for a single row of data for one entity. Without attempting to be cruel or personal, that type of logic and basis for denial is not only "Orwellian", it is rather frightening. And, needless to say, rather unsustainable given the stated intent of the President, Congress and the E-Rate program.

The foregoing is particularly true given the care taken to "follow instructions" and then being penalized therefor. It would appear to be rather obvious that if the USAC: SL had a "problem" with the procedure followed by the Applicant TSBA, it would and should have alerted the undersigned the duly authorized "contact person" and the person who filed the appeal to it, to the "issue" given its triviality, and further given that the USAC: SL advice was followed. Instead, a period of eight months elapsed and the summary denial ensued.

Summary:

This E-Rate application was filed by all of the K-12 public schools in **the** State **of**Tennessee comprising in excess of 900,000 students in conformity with a federal law specifically passed by Congress and signed into law by the President of the United States specifically to benefit those and other similar students throughout the country. This program is fully funded by telephone **users** and administered by the FCC which has delegated **the** administration thereof to a "faceless" intake bureaucracy in Lawrence, Kansas and an equally faceless appeal bureaucracy in Whippany, New Jersey.

In one sentence **both** of these bureaucracies have arbitrarily, capriciously and erroneously violated their own Official Website instructions, and the <u>fully followed</u> instructions of the USAC:SL, and have disregarded an honest and accurate E-Rate filing for the worst of reasons – veneration of bureaucratic form over substance, as they perceive it. Intake clerks made an initial determination, and that determination without a chance to discuss the matter have perpetuated that determination after an almost nine month wait.

It is respectfully requested that the PCC as the responsible oversight agency carefully review this Appeal and grant it, as that is the only fair, equitable and reasonable solution in accordance with its mandate.

FROM : LAW PRO, INC. PHONE NO. : 818 786+2471 Feb. 17 2003 12:59AM P9

Respectfully submitted

Peter Stoll



Universal. Service Administrative Company Schools & Libraries Division

Administrator's Decision on Appeal - Funding Year 2002-2003

December 20, 2002

Tammy Grissom
Tennessee School Boards Association
1130 Nelson Merry Street
Nashville, TN 37203

Re: Billed Entity Number:

228188

471 Application *Number:*

331527

Funding Request Number(s):

All attachFRNs

Your Correspondence Dated:

April 10,2002

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Year Five Funding Commitment Decision for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number:

All attached FRNs

Decision on Appeal:

Denied in full

Explanation:

- Your appeal states that you did include a completed Block 4, worksheet including Block 4A and 4C relevant to the request for schools was timely and fully submitted. Because of the fact that this Form 471 was filed as a consortium pursuant to Block 1, Item 5 and the documentation incorporated therein, the spreadsheet format was preapproved and adopted for Blocks 4A and 4C and incorporated as "attachments" and identified in the submission as such. You stated that the pre-approved (excel) format contains each and every column of information requested on Blocks 4A and 4C. You would like the SLD to reconsider this funding request, make the appropriate corrections and include request within the window.
- Upon thorough review of your appeal it was determined that you failed to submit a
 complete Block 4 worksheet with your Funding Year 2002-2003 Form 471. Program rules
 regarding minimum processing standards requires that at least one relevant Block 4

Box 125 - Correspondence Unit, 80 South Jefferson Road, Whippany, New Jersey 07981 Visit us online at: http://www.sl.universalservice.org

FROM : ("HM PRO, INC, PHONE NO, : 8.28 786+2471 F≥b, 17 2003 &1:00AM P1Ø

(worksheel C) with Item 10b, Column 4 must contain data. Since, your Block 4 worksheet (attachment) was incomplete it was properly rejected for failing minimum processing standards. Consequently your appeal is denied.

The original submission (pre-approved excel spreadsheet format) of this funding request was missing data in block 4, item 10b, column 4, which caused the form to be rejected for failing to meet the minimum processing standards for that form. Forms that do not meet the minimum processing standards are not considered for funding. Your appeal has not shown that the request was improperly denied. Consequently, this funding request will not be data entered and your appeal is denied.

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC) via United States Postal Service; FCC, Office of the Secretary, 445-12th Street SW, Washington, DC 20554. If you are submitting your appeal to the FCC by other than United States Postal Service, check the SLD web site for more information. Please reference CC Docket Nos. 9645 and 97-21 on the first page of your appeal. The FCC must RECEIVE your appeal WITHIN 60 DAYS OF THE ABOVE DATE ON THIS LETTER for your appeal to be filed in a timely fashion. Further information and new options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site. Www.sl.universalservice.org.

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: Reter Stoll
Global Enterprise Technologies, Inc.
16820Ventura Boulevard
Encino, CA 91436

FROM : LAW PRO,INC, PHONE NO. : 818 786+2471 Feb. 17 2003 01:00AM P11

DECLARATION OF PETER STOLL

- 1. The undersigned is the Vice President of Global Enterprise Technologies, Inc., 16820 Ventura Boulevard, Encino, California 91436; (818) 817-9511.
- 2. The undersigned assisted in the preparation of the accompanying Appeal, and knows of his own personal knowledge that each and every statement contained therein is true and correct.
- 3. During the months of December, 2001 and January, 2002, the undersigned assisted the Tennessee School Boards Association ("TSBA") in the preparation of its Form 471, timely filed with the Universal Service Administrative Company Schools & Libraries Division ("USAC). As such, I am thoroughly familiar with the contents of the Form 471 and all of the attachments thereto being re-submitted with the accompanying Appeal.
- **4.** The undersigned was fully involved with the preparation of **the** Form 471 and the underlying documentation required to be submitted therewith.
- 5: At all times during the period noted in, paragraph 3 above and to and including the filing on January 17, 2002, the Declarant was in touch with various representatives of the USAC with regard to the ultimate filing as discussed below.
- 6. The TSBA filed its Form 471 as a "Consortium" as noted on Block 1, Paragraph 5, and as such, filed on behalf of the K-12 schools in the State of Tennessee.
- 7. **As** a reviewer can note, the Form **471** and accompanying attachments to Blocks **4A** and **4C** and Block **5** approximate 200 pages.
- 8. When the Declarant realized that the information could not be contained within the Blocks provided for an on-line filing and on the forms themselves for a mail-in filing, (a mail-in filing required by the voluminous nature of the documentation), the Declarant immediately communicated with representatives of the 'USAC:.
- 9 During the period January 14 1.7,2002 inclusive, the Declarant spoke Eo several people and **Supervisors** at the **USAC** Helpline Technical Client Services Bureau, **including** Operator 109118 (who identified herself **as "Mary"**), **as** to the acceptable and best way of complying with the filing requirements and intent and substance of the E-rate regulations promulgated by the Federal Communication **Commission** ("FCC").
- 10. After extensive discussions between the Declarant and the USAC, and inter-agency discussions by representatives of the USAC, (as related to the Declarant by Mary and other supervisors), the format of an Excel-type spreadsheet containing **ALL OF THE COLUMNAR INFORMATION REQUIRED** by the USAC in **Blocks 4A** and 4C was adapted and adopted pursuant to **the USAC**'s approved telephonically relayed instructions to the Declarant.

11. In the discussions between the Declarant and the USAC representatives, including Supervisors, the Declarant was told that this was essentially a case of "first impression" in terms of a filing of this magnitude, and the extensive discussions were for the purpose of avoiding many hundreds of additional pages of duplicative information being contained within the filing.

12. In accordance with the understanding reached with the USAC by the Declarant, the format was in fact used and a note with regard to the instructions was attached to the filing immediately following the FCC Form 471 form page 3a of 6 and immediately preceding the columnar information identified for Block 4A stating as follows:

"Gentlemen:

We have filed the attachment form in the format shown pursuant to the instructions of Mary, to whom we spoke on the Helpline Technical Client Services Bureau on January 17,2002 who approved this format,"

This specific note of explanation and attachment was placed where it was in the filing of the Form 471 per the discussion and direction of Mary (noted above), but apparently was overlooked in the initial examination of the paperwork.

- 13. Each and every columnar title-heading is contained in the filing on the initial page of Blocks **4A** and 4C as per-the instructions of the **USAC** representatives. Each sequential page is numbered pursuant to the instructions of the **USAC** representatives. Therefore, **all** of the required information is contained in the format of the Form 471 in compliance with the foregoing agreement with the **USAC**.
- 14. **As** further proof of the Agreement between the Declarant **and** the 'USAC, the **same** format **was** approved and adapted and utilized with regard to the **Block** 5 funding requests for the **two** separate Service Providers of approximately 99 pages of data in the Block 5 calculations containing 11 horizontal columns, **and** no objection was made thereto.

Dated this 5" day of April, 2002, at Encino, California.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

PETER STOIL

1	Entity Number 228788 Applicant's Form identifier TSBHVD9
	Contact Person Tammy Grissom Phone Number (615) 741-0666
1	

Block 4: Discount Calculation Worksheet C for Consortia

Worksheet #C-_1_

Page 1 of 38

(For Administrator's Use)

Instructions: If you are filing a Consortium application, use this worksheet to calculate the consortium discount rate based on eligible members' discounts. Provide Worksheets A and/or B for back-up documentation.

10a If you are:

- Applying for discounts ONLY on site-apscific services:
- Complete columns 1-4 only. Add and number pages as needed. -
- Applying for discounts on services shared by ALL members (with or without site-specific services as well): Complete columns 1-4 PLUS 10c, below.
- Applying for discounts on different shared services shared by different groups of conspitium members:
 Complete one worksheet, columns 1-4 PEUS 10c, for EACH different group of entities sharing a service. Designate this worksheet C-1, C-2, C-3, etc.

100 Far Branes and Otherste anasamie.	2	3	
ELIGIBLE MEMBER ENTITIES Name of each school, school district and/or fibrary (i.e. outlet/branch, system) in consortium	ENTITY NUMBER For each entity listed In Column 1		ENTITY DISCOUNT School: Discount from Worksheet A, Column 7 School District: Weighted Average Discount from Worksheet A, flem 10c Library System: Discount from Worksheet B, Item 10c
SEE ATTACHED	SEE ATTACHED		SEE ATTACHED
<u> </u>			
Totals for calculating Shared Discount			
10c Shared Discount % (Col. 4 total divided by # of entitles in Col. 1. Ros	und lo nearest %)		

Athens Junior High

Auburn Elementary

ELIGIBLE MEMBER ENTITIES	ENTITY #	ENTITY DISCOUNT
21st century Academy		60%
A L Lotts Elementary		<i>50%</i>
AB. Hill Elementary		80%
A.H. Roberts Elementary		80%
Adamsville Elementary		70%
Adamsville Junior/Senior High		70%
Adrian Burnett Elementary		50%
Airways Middle		80%
Akard Memorial Elementary	41549	60%
ALAMO	128413	60%
Aiamo Elementary school	42048	60%
ALCOA	128334	60%
Alcoa Elementary School	41650	
Alcoa High School	41651	60%
Alcoa Middle School	41652	60%
Alcy Elementary		80%
Alex Green Elementary		80%
Alexander Elementary		80%
Algood school	42656	70%
Allardt Elementary		80%
Allen Elementary		SO %
Allons Elementary		80%
Alpha Elementary		70%
Alpha Primary Elementary		70%
Alpine Crest Elementary		60%
Aiton Elementary		80%
Altruria Elementary		40%
Amqui Elementary		80%
ANDERSON COUNTY	128340	
Anderson County High		60%
Anderson Earty Childhood Center	42066	
Anderson Elementary	41553	
Andersonville Elementary	40.400	60%
Andrew Jackson Elementary	42489	
Andrew Jackson Elementary		80%
Antioch High School		80%
Antioch Middle School		80%
Apison Elementary		60%
Apollo Middle School		80%
Appling Middle		40%
Arlington Elementary		80%
Arlington Elementary		40% 40%
Arlington Middle	4125	
Arnold Elementary	4074	
Ashland City Elementary		
Ashland City Primary	4074 12826	
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SUPPLEMENTAL DECLAKATION OF PETER STOLL

- 1. The undersigned **is** the duly authorized representative of NATIONAL VIDEOPHONE **SERVICES, INC.**, **SPIN Service** Provider Information Number = 143021004, the selected vendor under the Form 471 at issue herein.
- 2. The undersigned assisted in the preparation of the accompanying Appeal to the FCC, as well as the prior Appeal to the Universal Service Administrative Company Schools & Libraries Division, (hereinafter "USAC:SL"), Whippany, New Jersey and knows of his own personal knowledge that each and every statement contained herein and therein is true and correct.
- 3. During the months of December, 2001 and January, 2002, the undersigned assisted the Tennessee School Boards Association ("TSBA") in the preparation of its Form 471, timely filed with the USAC:SL. As such, I am thoroughly familiar with the contents of the Form 471 and all of the attachments that were submitted with the original Appeal to USAC:SL.
- 4. The undersigned was fully involved with the preparation of the Form 471 and the underlying documentation required to he submitted therewith.
- 5. At all **times** during the period noted in paragraph 3 above and to and including the filing on January 17,2002, the filing date of the Form 471 at issue, the Declarant was in touch by telephone with **various** representatives of the USAC:SL with regard to the ultimate filing as discussed below. These phone communications were in direct instruction and urging by the USAC:SL on, its Official website as follows: "Ifyou have Internet access (at work, at home, at a local library, or through a friend), please check the SLEDDED web site <www.sl.universalservice.org regularly for program updates. For more complete guidance. contact the SLEDDED Client Service Bureau toll-free at 1-888-203-8100." (Latter underline emphasis added).
- 6. The TSBA filed its Form 471 as a "Consortium" as noted on Block 1, Paragraph 5, and as such, filed on behalf of the K-12 schools in the State of Tennessee.
- 7. As a reviewer can note, the Form 471 and accompanying attachments to Blocks 4A and 4C and Block 5 approximate 200 pages.
- 8. When the Declarant realized that the information could not be contained within the Blocks provided for an cn-line filing and on the forms themselves for a mail-in filing, (a mail-in filing required by the voluminous nature of the documentation), the .Declarant immediately communicated by telephone with representatives of the USAC:SL.
- 9 During the period January 14 17,2002 inclusive, the Declarant spoke to several people and Supervisors at the USAC:SL Helpline Technical Client Services Bureau, including

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Operator 109118 (who identified herself as "Mary"), as to the acceptable and best way of complying with the tiling requirements and intent and substance of the E-rate regulations promulgated by the Federal Communication Commission ("FCC").

- 10. After extensive discussions between the Declarant and the USAC:SL, and interagency discussions by representatives of the USAC:SL, (as related to the Declarant by Mary and other supervisors), the format of an Excel-type spreadsheet containing **ALL OF THE**<u>COLUMNAR INFORMATION REQUIRED</u> by the USAC:SL in Blocks 4A and 4C was adapted and adopted pursuant to the USAC:SL's <u>aaaroved</u> telephonically relayed instructions to the Declarant.
- 11. In the discussions between the Declarant and the USAC:SL representatives, including Supervisors, the Declarant was told that this was essentially a case of "first impression" in terms of a filing of this magnitude, and the extensive discussions were for the purpose of avoiding many hundreds of additional pages of duplicative information being contained within the filing.
- 12. In accordance with the understanding reached and specific instruction by the USAC.SL given to **the** Declarant, the format was in fact used and **a** note with regard to **the** instructions was attached to the filing immediately following the PCC Form 471 form page 3a of 6 and immediately preceding the columnar information identified for Block **4A** stating as follows:

"Gentlemen:

We have filed the attachment form in the format shown pursuant to the instructions of **Mary**, to whom we spoke on the Helpline Technical Client Services Bureau on January **17**, 2002 who approved this format."

This specific **note** of explanation and attachment **was placed where it** was **in** the filing **of the Form 471 per** the discussion and direction **of** Maw (noted above), but apparently **was** overlooked **in** the initial **examination** of **the** paperwork

- 13. Each and every columnar titleheading is contained in the filing on the initial page of Blocks 4A and 4C as per the instructions of the USAC:SL representatives. Each sequential page is numbered pursuant to the instructions of the USAC:SL representatives. Therefore, all of the required information is contained in the format of the Form 471 in compliance with the foregoing agreement with the USAC:SL.
- 14. As further proof of the Agreement between the Declarant and the USAC:SL, the same format was approved and adapted and utilized with regard to the Block 5 funding requests for the two separate Service Providers of approximately 99 pages of data in the Block 5 calculations containing 11 horizontal columns, and no objection was made thereto.

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15. During the period of in excess of eight (8) months (early April, 2002 to December 20, 2002) while the Appeal to USAC:SL was pending in Whippany, New Jersey, the Declarant spoke to an Intake Supervisor at the USAC:SL in Lawrence, Kansas, named Debbie Wilbur to see if she could expedite the Appeal, as the entire K-12 Public School.system in the State of Tennessee was awaiting the results of the initial Appeal.

16. Although Ms. Wilbur was very helpful, she specifically told the Declarant that people at the USAC:SL in Lawrence, Kansas were basically only involved with intake and data entry and initial determination of compliance, the Appeal process was entirely in the hands of the Appeal section of the USAC:SL in Whippany, New Jersey. Ma. Wilbur did however, in response to a direct question by the Declarant specifically state that the Form 471 filed by the TSBA was, as far as she was concerned, in compliance, as the <u>form is used for data entry only</u>. She had the Form 471 filed by the TSBA in her possession at the time of the initial conversation with her. Please note that this opinion by Ms. Wilbur was "off the record" in terms of ita compliance with USAC:SL regulations, as the determination of "compliance" was in the USAC:SL people in New Jersey, but she very specifically confirmed the mere data entry function of the intake clerks in Lawrence, Kansas.

Dated this 17th day of February, 2003, at Sherman Oaks, California.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

PETER STOLL